

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:

CHAPTER 7

LICHTIN/WADE, LLC

CASE NO.: 12-00845-8-RDD

DEBTOR

**FIRST AGREED MOTION TO EXTEND TIME TO OBJECT TO ATTORNEY FEES
AND COSTS REQUEST AND TO CONTINUE HEARING**

NOW COMES Joseph N. Callaway, the duly appointed Chapter 7 Trustee in this case (the "Trustee"), and with respect to the Motion (DE #571) filed by ERGS II, LLC ("ERGS") seeking determination of its secured liens, costs and attorney fees, with the agreement of ERGS and the Office of the Bankruptcy Administrator for this district (the "BA"), he hereby moves to extend for seven (7) days the time for objection to asserted attorney fees and costs and also the hearing upon this matter, respectfully showing in support as follows:

1. The Motion sought allowance of not less than \$43,398,901.53 as a fully secured claim by ERGS. The Trustee and others objected, and after a hearing on August 28, 2013, by Order dated September 9, 2013, (DE #610; the "Order") the Court allowed the ERGS secured claim for principal and interest in the aggregate amount of \$40,958,700.74 as of August 20, 2013, plus interest after that date at the contractual default rate of 8.25% (less the payment received in September) until paid.
2. The \$2,440,888.30 of attorney fees and expert witness costs reimbursement accumulated through July 31, 2013, sought by ERGS in the Motion (the "Costs Claim") was deferred to hearing on September 20, 2013 in order to allow certain parties to receive and review time records and details under a confidentiality agreement. A further objection deadline of September 13, 2013 was set in the Order.
3. The Trustee reports that he, ERGS and the BA are discussing a possible resolution for the Costs Claim, but are in need of further time to continue negotiations. The BA and Trustee believe that requiring their respective offices to file detailed objections would not be helpful to the settlement process. ERGS agrees that an extension of time would be useful in determining if the matter can be resolved by consent.
4. As a consequence, the Trustee, ERGS and the BA believe that extending for one week the time for all affected parties to file detailed objections to the Costs Claim and also for continuing the hearing thereon for at least one week to a time and date convenient for the Court would be in the best interests of not only those parties, but the unsecured creditors of the Debtor as well.

WHEREFORE, the Trustee, with the agreement of the BA and ERGS, requests that the Court issue an order:

- A. Extending to 4 pm on September 20, 2013, the time for filing detailed objections to the Costs Claim;
- B. Continuing the hearing currently set on that matter for September 20, 2013 for at least one week to a date, time and place convenient for the Court; and
- C. For such other relief as may be convenient.

DATED: September 10, 2013

BATTLE WINSLOW SCOTT & WILEY, PA

/s/Joseph N. Callaway

Joseph N. Callaway

NC State Bar No. 10821

Attorneys for Chapter 7 Trustee

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CERTIFICATE OF SERVICE

I, Rebecca M. Weaver, a Legal Assistant with the law firm of Battle Winslow Scott and Wiley, P.A., do hereby certify that on the 10th day of September, 2013, I served the documents to which this certificate is attached:

FIRST AGREED MOTION TO EXTEND TIME TO OBJECT TO ATTORNEY FEES AND COSTS REQUEST AND TO CONTINUE HEARING

by electronic service or by depositing copies thereof postpaid in a post office or official depository under the exclusive care and custody of the United States Postal Service, in a wrapper, addressed to each of the following parties of interest in this action at the following last known addresses (UNLESS INDICATED OTHERWISE):

<u>Served Via CM/ECF</u> Christopher Scott Kirk Office of the Bankruptcy Administrator 1760 Parkwood Blvd., Suite B Wilson, NC 27893-3588	<u>Served Via CM/ECF</u> Trawick H. Stubbs, Jr. Stubbs & Perdue, P.A. P.O. Box 1654 New Bern, NC 28563-1654
<u>Served Via CM/ECF</u> Joseph W. Moss, Jr. Erwin, Bishop, Capitano & Moss, P.A. 4521 Sharon Road, Suite 350 Charlotte, N.C. 28211	<u>Served Via CM/ECF</u> John A. Northen Northen Blue, LLP PO Box 2208 Chapel Hill, NC 27515-2208
<u>Served Via CM/ECF</u> Thaddeus D. Wilson King & Spalding LLP 1180 Peachtree Street Atlanta, GA 30309	<u>Served Via CM/ECF</u> Edward L. Ripley King & Spalding LLP 1100 Louisiana, Ste. 4000 Houston, TX 77002-5213

s/Rebecca M. Weaver

Rebecca M. Weaver

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